

HAFETZ NECHELES & ROCCO

ATTORNEYS AT LAW

500 FIFTH AVENUE
NEW YORK, N.Y. 10110
TELEPHONE: (212) 997-7595
TELECOPIER: (212) 997-7646
E-MAIL: INFO@HNRLAWOFFICES.COM

March 9, 2012

The Honorable Frederic Block
United States District Court
Brooklyn Federal Court House
225 Camden Plaza
Brooklyn, New York 11201

Re: United States v. Pedro Espada Jr. et al.
Cr. No. 10-985 (S-3) FB

Dear Judge Block:

The government intends to call Maria Cruz as a witness but has moved to preclude the defense from cross-examining her about her statements concerning an attempted murder for which she was arrested and for which she pleaded guilty to Assault in the Second Degree.

Ms. Cruz's statements to the government about this conviction place her veracity at issue. She pleaded guilty to Assault and swore under oath that she had done the acts to which she pleaded guilty. She now says that her sworn statements were false, and that she was really the victim of the assault, not the assailant. These statements show Ms. Cruz's tendency to blame her own acts on other people and to lie.

Courts have repeatedly held that "It is an abuse of discretion and a violation of constitutional rights to deny to a defendant the right to cross-examine a witness at all on 'a subject matter relevant to the witness's credibility,' such as an instance of prior false swearing." *Snyder v. Coiner* 510 F.2d 224, 225 -226 (C.A.W.Va. 1975)(citing *Davis v. Alaska* (1974) 415

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U.S. 308, 318, 94 S.Ct. 1105, 1112, 39 L.Ed.2d 347; *United States v. Jordan* (4th Cir. 1972) 466 F.2d 99, 104-105, cert. *226 den. 409 U.S. 1129, 93 S.Ct. 947, 35 L.Ed.2d 262; *Simon v. United States* (4th Cir. 1941) 123 F.2d 80, 85, cert. den. 314 U.S. 694, 62 S.Ct. 412, 86 L.Ed. 555; *Pullman Co. v. Hall* (4th Cir. 1932) 55 F.2d 139, 141; *Gaiten v. Stahl* (D.C.N.C.1971) 327 F.Supp. 415, 421).

Accordingly, the government's motion to preclude the defense from questioning Ms. Cruz about this prior conviction and her statements concerning this conviction must be denied.

Very truly yours,

By: /s/Susan R. Necheles
Susan R. Necheles
Hafetz Necheles & Rocco
500 Fifth Avenue, 29th Floor
New York, New York 10110
Telephone: (212) 997-7595
Facsimile: (212) 997-7646
Attorney for Pedro Espada, Jr.

/s/ Russell Gioiella
Russell Gioiella
LITMAN ASCHE & GIOIELLA
140 Broadway
New York, New York 10005
Telephone: (212) 809-4500
Facsimile: (646) 607-9643
Attorney for Pedro Gautier Espada